

AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 12/13/2010
FROM: Faith G. Miller, City Manager **AGENDA ITEM:** 7 - C
SUBJECT: Request for Approval for Renewal of Physio-Control, Inc. Technical Service Support Agreement.

LOCATION:

Fire Department

BACKGROUND:

On August 16, 2010, the City Commission approved the purchase agreement of ten LifePak 15 Cardiac Monitors and a budget amendment to record receipt for a matching Emergency Medical Services (EMS) grant from the State of Florida, Department of Health, Bureau of EMS.

Physio-Control, Inc. is the sole source provider for the LifePak Cardiac Monitors. A Technical Service Support Agreement has been in place since 2005 and is renewed on a annual basis. The service support agreement includes standard repairs, upgrades, power adapters, battery replacements and software updates that helps ensure the device is in a state of optimum readiness.

This year, the agreement will expand over a three-year period for a total of \$31,215.00, payable in annual installments. The annual installments are \$10,405.00. The Fire Department is requesting approval of the Technical Service Support Agreement for the three year period to lock in a price that is \$1,204.00 less per year than the last contract. An overall savings of \$3,612.00.

**ORIGINATING
DEPARTMENT:**

Fire Administration

SOURCE OF FUNDS:

R and M Equipment

COST:

\$31,215.00

REVIEWED BY:

Fire Chief, Purchasing Manager, Legal

STAFF

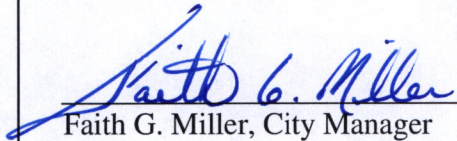
**RECOMMENDATION
PRESENTED BY:**

Robert Staples, Fire Chief - to approve the renewal of Physio-Control, Inc. Technical Service Support Agreement for a period of three-years at a total cost of \$31,215.00, payable in annual installments.

**POTENTIAL
MOTION:**

"I move to approve the renewal of Physio-Control, Inc. Technical Service Support Agreement for a period of three-years at a total cost of \$31,215.00, payable in annual installments."

**AGENDA ITEM
APPROVED BY:**


Faith G. Miller, City Manager

ATTACHMENTS:

- Technical Service Support Agreement

TECHNICAL SERVICE SUPPORT AGREEMENT



Contract Number:

End User # 01658301
DELTONA FIRE RESCUE
1685 PROVIDENCE BLVD
DELTONA, FL 32725

Bill To # 01658302
CITY OF DELTONA
2345 PROVIDENCE BLVD.
DELTONA, FL 32725

This Technical Service Support Agreement begins on 10/1/2010 and expires on 9/30/2013.

The designated Covered Equipment and/or Software is listed on Schedule A. This Technical Service Agreement is subject to the Terms and Conditions on the reverse side of this document and any Schedule B, if attached. If any Data Management Support and Upgrade Service is included on Schedule A then this Technical Service Support Agreement is also subject to Physio-Control's Data Management Support and Upgrade Service Terms and Conditions, rev 7/99-1.

Price of coverage specified on Schedule A is \$31,215.00 per term, payable in Annual installments.

Special Terms

10% DISCOUNT ON ACCESSORIES
Batteries will be replaced on a one for one basis.

Accepted: Physio-Control, Inc.

Customer:

By:

By:

Title:

Print:

Date:

Title:

Date:

Purchase Order Number:

Territory Rep: EAVV66
Darren Brune
Phone: 800-442-1142 x2327
FAX: 800-772-3340

Customer Contact:
Kate Kraus
Phone: 386-878-8570
FAX: 386-878-8501

Reference Number: V66-1629
Printed: 11/15/2010

New
Page 1 of 6

PHYSIO-CONTROL, INC.
TECHNICAL SERVICE SUPPORT AGREEMENT TERMS AND CONDITIONS

RENEWAL TERMS

Physio-Control, Inc.'s ("Physio-Control") acceptance of Customer's Technical Service Support Agreement is expressly conditioned on Customer's assent to the terms set forth in this document and its attachments. Physio-Control agrees to furnish the services ordered by Customer only on these terms, and Customer's acceptance of any portion of the goods and services covered by this document shall confirm their acceptance by Customer. These terms constitute the complete agreement between the parties and they shall govern any conflicting or ambiguous terms on Customer's purchase order or on other documents submitted to Physio-Control by Customer. These terms may not be revised in any manner without the prior written consent of an officer of Physio-Control.

REPAIR SERVICES

If "Repair" services are designated, subject to the Exclusions identified below, they shall include, for the designated Covered Equipment, all repair parts and materials required, all required Physio-Control service technician labor, and all related travel expenses. For offsite (ship-in) services, units will be returned to Customer by Physio-Control freight prepaid.

INSPECTION SERVICES

If "Inspection" services are designated, subject to the Exclusions identified below, they shall include, for the designated Covered Equipment, verification of proper instrument calibration, verification that instrument mechanical operations and output measurements are consistent with applicable product specifications, performance of an electrical safety check in accordance with National Fire and Protection Guidelines, all required Physio-Control service technician labor and all related travel expenses. For offsite (ship-in) services, units will be returned to Customer by Physio-Control freight prepaid.

DOCUMENTATION

Following each Repair and/or Inspection, Physio-Control will provide Customer with a written report of actions taken or recommended and identification of any materials replaced or recommended for replacement.

LOANERS

If a Physio-Control product is designated as a unit of Covered Equipment for Repair Services and needs to be removed from service to complete repairs, an appropriate Loaner unit will be provided, if available, until the removed unit is returned. Customer assumes complete responsibility for the Loaner and shall return the Loaner to Physio-Control in the same condition as received, at Customer's expense, upon the earlier of the return of the removed unit or Physio-Control's request.

EXCLUSIONS

This Technical Service Support Agreement does not include: supply or repair of accessories or disposables (e.g., patient cables, recorder paper, etc.); repair of damage caused by misuse, abuse, abnormal operating conditions, operator errors, and/or acts of God; repairs to return an instrument to normal operating equipment at the time of initial service by Physio-Control under this Technical Service Support Agreement; case changes; repair or replacement of items not originally distributed or installed by Physio-Control; and exclusions on Schedule B to this Technical Service Support Agreement, if any, which apply to Covered Equipment.

SCHEDULE SERVICES

Designated Repair and Inspections Services will be performed at the designated service frequency and during designated service hours except where service technicians are rendered unavailable due to mandatory training commitments, in which case Physio-Control will provide alternate coverage. Customer is to ensure Covered Equipment is available for Repair and/or Inspection at scheduled times. If Covered Equipment is not available as scheduled and Customer requests additional services to be performed or if Physio-Control is requested to perform Repair or Inspection services not designated in this Technical Service Support Agreement (due to the nature of services selected, instruments involved not being Covered Equipment, request being outside of designated service frequency or hours, or application of the Exclusions); Customer shall reimburse Physio-Control at Physio-Control's standard labor rates less 10% (including overtime, if appropriate), plus standard list prices for related parts and materials less 15%, plus actual travel costs incurred.

PAYMENT

The cost of services performed by Physio-Control shall be payable by Customer within thirty (30) days of Customer's receipt of Physio-Control's Invoice (or such other terms as Physio-Control confirms to Customer in writing). In addition to the cost of services performed, Customer shall pay or reimburse Physio-Control for any taxes assessed Physio-Control. If the number or configuration of Covered Equipment is altered during the Term of this Technical Service Support Agreement, the price of Services shall be adjusted accordingly.

WARRANTY

Physio-Control warrants Services performed under this Technical Service Support Agreement and replacement parts provided in performing such Services against defects in material and workmanship for ninety (90) days from the date a Service was performed or a part was provided. Customer's sole remedy shall be reservicing the affected unit and/or replacement of any part determined to be defective, without any additional Customer charge, provided Customer notifies Physio-Control of any allegedly defective condition within ten (10) calendar days of its discovery by Customer. Physio-Control makes no other warranties, express or implied, including, without limitation, **NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND IN NO EVENT SHALL PHYSIO-CONTROL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR OTHER DAMAGES.**

TERMINATION

Either party may terminate this Technical Service Support Agreement at any time upon sixty (60) days prior written notice to the other, except that Physio-Control may terminate this Technical Service Support Agreement immediately upon Customer's failure to make timely payments for services rendered under this Technical Service Support Agreement. In the event of termination, Customer shall be obligated to reimburse Physio-Control for that portion of the designated price which corresponds to that portion of the Term and the scope of Services provided prior to the effective date of termination.

DELAYS

Physio-Control will not be liable for any loss or damage of any kind due to its failure to perform or delays in its performance resulting from any cause beyond its reasonable control, including, but not limited to, acts of God, labor disputes, labor shortages, the requirements of any governmental authority, war, civil unrest, delays in manufacture, obtaining any required license or permit, and Physio-Control's inability to obtain goods from its usual sources. Any such delay shall not be considered a breach of Physio-Control's obligations and the performance dates shall be extended for the length of such delay.

MISCELLANEOUS

- a) Customer agrees to not employ or offer employment to anyone performing Services on Physio-Control's behalf during the Term of this Technical Service Support Agreement or for one (1) year following its expiration without Physio-Control's prior written consent.
- b) This Technical Service Support Agreement, and any related obligation of other party, may not be assigned in whole or in part without the prior written consent of the other party.
- c) The rights and obligations of Physio-Control and Customer under this Technical Service Support Agreement shall be governed by the laws of the State in which the service is provided. All costs and expenses incurred by the prevailing party related to the enforcement of its rights under this document, including reasonable attorney's fees, shall be reimbursed by the other party.
- d) **Annual Appropriations** – The City of Deltona's performance and obligation to pay under this agreement is contingent upon an annual appropriation by the City Commission.

.....
.....END.....

PHYSIO-CONTROL, INC.
TECHNICAL SERVICE SUPPORT AGREEMENT
SCHEDULE A

Contract Number:

Servicing Rep: Darren Brune, EAVV66
District: GULF COAST
Phone: 800-442-1142 x2327
FAX: 800-772-3340

Equipment Location: DELTONA FIRE RESCUE, 01658301
1685 PROVIDENCE BLVD
DELTONA, FL 32725

Scope Of Service POS LP15 On Site Repair and 1 Insp per Year:M-F/8-5

Model	Part Number	Serial Number	Ref. Line	Effective Date	Expiration Date	Total Inspections
LIFEPAK® 15	V15-2-000052	39054710	1	10/1/2010	9/30/2013	3
LIFEPAK® 15	V15-2-000052	39054830	2	10/1/2010	9/30/2013	3
LIFEPAK® 15	V15-2-000052	39054833	3	10/1/2010	9/30/2013	3
LIFEPAK® 15	V15-2-000052	39054834	4	10/1/2010	9/30/2013	3
LIFEPAK® 15	V15-2-000052	39054835	5	10/1/2010	9/30/2013	3
LIFEPAK® 15	V15-2-000052	39054836	6	10/1/2010	9/30/2013	3
LIFEPAK® 15	V15-2-000052	39054846	7	10/1/2010	9/30/2013	3
LIFEPAK® 15	V15-2-000052	39054850	8	10/1/2010	9/30/2013	3
LIFEPAK® 15	V15-2-000052	39054851	9	10/1/2010	9/30/2013	3
LIFEPAK® 15	V15-2-000052	39054852	10	10/1/2010	9/30/2013	3

** Denotes an inventory line that has changed since the last contract revision or addendum.

PHYSIO-CONTROL, INC.
TECHNICAL SERVICE SUPPORT AGREEMENT
SCHEDULE B

LIFEPAK® 15 (LP 15) Defibrillator/Monitor Service includes:

- Standard detachable hard paddle repairs
- LP15 upgrade installed by Physio-Control Technical Services Representative at a rate of 17% less than the then current field-installed list price
- All Physio-Control battery charging systems owned by contract end user, up to a one-for-one basis with the total number of LP15 Defibrillator/Monitor's listed in Schedule A.
- Power Adapter

Physio-Control LIFEPAK® 15 Battery

Battery maintenance, performance testing, evaluation, removal, recycling, and replacement are the Customer's responsibility and should be performed in accordance with the LP 15 Series Operating Instructions section entitled Discarding/Recycling Batteries.

Battery replacement is available upon completion of the second year of use on a one-for-one basis, up to the number of devices listed in Equipment Inventory, Schedule A. Replacement batteries shall be like-for-like (i.e. LIFEPAK LI-ion for LIFEPAK LI-ion, etc.).

One-for-one, like-for-like battery replacement is available prior to the completion of second year of use upon battery failure as determined by Customer's performance testing and evaluation in accordance with the LP 15 Operating Instructions section entitled Discarding/Recycling Batteries. During the Term of this Agreement, no-charge replacement for battery failure shall occur no more than three (3) times per two-year period, regardless of any terms in prior Support Plans.

Battery replacement is dependent upon Customer's notice to Physio-Control of the completion of the second year of use or battery failure as determined by Customer's performance testing and evaluation. At the discretion of Physio-Control, battery replacement shall be accomplished by shipment to Customer and replacement by Customer, or by on-site delivery and replacement by a Physio-Control Service Technician. Upon Customer's receipt of replacement battery, the battery being replaced becomes the property of Physio-Control, and Customer must return the battery being replaced to Physio-Control for proper disposal. If Physio-Control does not receive the battery Customer will be charged at the then-current rate for the replacement battery.

Only batteries manufactured by Physio-Control are covered under this Service Agreement. Batteries not manufactured by Physio-Control are expressly excluded from coverage under this Service Agreement. Physio-Control does not guarantee the operation, safety, and/or performance of our product when operating with a battery not manufactured by Physio-Control. Repairs and inspections performed under this Agreement meet original equipment manufacturer's product specifications only when operating with a battery manufactured by Physio-Control. Any repairs, as determined by a Physio-Control Service Representative, resulting from the use of a battery not manufactured by Physio-Control, will be billed at Physio-Control's then current standard list prices for parts and labor, including actual travel costs incurred.

• **LIFEPAK® 15 Software Updates**

If combined Repair and Inspection services are designated for LP 15 units listed in Schedule A, a Physio-Control Technical Services Representative will install LP 15 software updates at no additional cost, provided they are installed at the time of a regularly scheduled inspection. In addition, during the Term of this Agreement, where an assembly, i.e., printed circuit board, must be replaced to accommodate installation of new software, such assembly may be purchased by the Customer at a rate of 50% less than the then-current list price. Software updates, when installed at a time other than the regularly scheduled inspection, will be billed at a rate of \$205.00 per unit per software update. The cost of such software update will be billed in a separate invoice. Dependent upon availability of Customer software loading tool, and at Customer's request, Technical Services Representative shall provide Customer access to software loading tool at no additional charge.

If Repair-Only services are designated for LP 15 units listed in Schedule A, a Physio-Control Technical Services Representative will install a LP 15 software update at the rate of \$205.00 per unit per software update. In addition, during the Term of this Agreement, where an assembly, i.e., printed circuit board, must be replaced to accommodate installation of new software, such assembly may be purchased by the Customer at a rate of 50% less than the then-current list price. The cost of such software update will be billed in a separate invoice. Dependent upon availability of Customer software loading tool, and at Customer's request, Technical Services Representative shall provide Customer access to software loading tool at no additional charge.

PHYSIO-CONTROL, INC.
TECHNICAL SERVICE SUPPORT AGREEMENT
SCHEDULE B

LP 15 Defibrillator/Monitor does not include repair or replacement of the following:

- Internal, sterilizable and pediatric paddles
- Communications cables
- Therapy cables
- Patient cables
- SpO2 sensors
- Case changes

Discounts may not be combined with other special terms, discounts and/or promotions.